

VZCZCXRO6958  
RR RUEHCHI RUEHDT RUEHHM RUEHNH  
DE RUEHPF #0608/01 2320948  
ZNR UUUUU ZZH  
R 200948Z AUG 09  
FM AMEMBASSY PHNOM PENH  
TO RUEHC/SECSTATE WASHDC 1092  
INFO RUCNASE/ASEAN MEMBER COLLECTIVE

UNCLAS SECTION 01 OF 02 PHNOM PENH 000608

SENSITIVE  
SIPDIS

STATE FOR EAP/MLS, P, D, DRL, IO, EEB

E.O. 12958: N/A  
TAGS: [ECON](#) [EINV](#) [CB](#)  
SUBJECT: LAW ON STRATA TITLING PAVES THE WAY FOR FOREIGN PROPERTY OWNERSHIP

REF: A) PHNOM PENH 60, B) PHNOM PENH 276

SENSITIVE BUT UNCLASSIFIED

11. (U) SUMMARY. The Council of Ministers passed a new sub-decree July 31 which allows Cambodian citizens to apply for titles to individual apartment or condominium units in a larger building. The new law is the precursor to a widely anticipated draft law which would allow foreigners to own properties above the ground floor. Royal Government of Cambodia (RGC) representatives hope that allowing limited property ownership for foreign investors will attract much-needed capital for the country's flagging real estate sector. However, the law's real impact may be limited outside of major commercial centers. END SUMMARY.

#### NEW SUB-DECREE OUTLINES CO-OWNERSHIP OF BUILDINGS

-----

12. (U) The Council of Ministers passed a sub-decree July 31 outlining the regulations for co-ownership of apartment and condominium buildings, also known as "strata titling". Under the new law, Cambodian citizens can apply for hard titles, registered in the national cadastre, to individual units within a larger building. All owners within a building have use rights to common areas and co-own the land underneath the building in proportion to the value and number of units they own. The law requires buildings to establish a corporate body to manage governance and maintenance issues. Majority decisions are required for changes to a building's governing rules, and 75% agreement is required for demolition, rebuilding, or renovation decisions. If the land on which a building sits is sold, the building occupants receive compensation in proportion to the value and number of units they own.

13. (U) Prior to the passage of the new law, apartment and condominium owners could only possess soft titles to their properties, issued by municipal authorities rather than the national cadastral administration (Ref A). Building occupants commonly accepted that the ground floor residents "owned" the land under the building, although this was rarely formalized with hard titles. Local real estate attorney Matthew Rendall explained that because of this informal convention, he only saw the new law on strata titling applying to new and future apartment buildings. In order for an apartment building constructed before the passage of the co-ownership sub-decree to become eligible for strata titling, residents would be required to establish a governing body and formally agree to the regulations on proportional ownership of the land underneath the building. Rendall doubted that most ground floor residents, who likely enjoy greater authority over their apartment buildings, would agree to the proportional building ownership rules that come with strata titling.

#### FOREIGN OWNERSHIP BY END OF YEAR?

-----

14. (U) Under Secretary of State Sek SETHA, head of the Ministry of Land Management, Urban Planning, and Construction's (MLMUPC) Legal Unit, told Poloff that the strata titling sub-decree creates the

foundation for a new law allowing foreign ownership of properties above the ground floor. Per the Cambodian Constitution, foreigners are barred from owning land, but RGC representatives hope that allowing limited property ownership will attract foreign investors to the flagging real estate sector, which has been weakened by the global economic crisis (Ref B). The MLMUPC has developed a draft of the law in consultation with private sector stakeholders and expects the National Assembly to review and pass it by the end of this year. Sek Seta was upbeat about the prospect of foreign ownership benefitting the sector, saying that foreign investors had shown a great deal of interest in the draft law.

15. (U) According to the current draft of the law, foreigners would be allowed to apply for hard titles to properties above the ground floor, which would carry all the same entitlements and rights as those outlined in the strata titling sub-decree, except for proportional ownership rights to the land underneath buildings. Foreigners would be limited to owning no more than two properties within a single building. The current draft stipulates that no more than 49% of a building can be foreign-owned, and foreigners would not be able to own property within 30 kilometers of a national border. Private sector stakeholders have asked for clarification as to whether the latter requirement refers to maritime borders in addition to land borders, citing the interest in beachfront properties along Cambodia's coast. (NOTE: Territorial waters extend only 22 kilometers from shore. END NOTE.)

COMMENT  
-----

16. (SBU) The draft law on foreign ownership seems to have garnered strong interest from the expatriate community in Phnom Penh, but it

PHNOM PENH 00000608 002 OF 002

remains to be seen if this interest will translate into an injection of foreign capital into the real estate sector. Outside of the larger commercial centers such as Phnom Penh and Sihanoukville, foreign property ownership may be slow to take off and have limited impact on economic growth. While foreign investors may welcome the chance to own property in Cambodia, they will still have to contend with the more difficult challenges in the Cambodian business environment, namely corruption and lack of dispute resolution mechanisms.

RODLEY